

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION**

NETLIST, INC.,

Plaintiff,

v.

MICRON TECHNOLOGY, INC. *et al.*,

Defendants.

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Case No. 2:22-cv-00203-JRG-RSP

ORDER

Before the Court is Plaintiff Netlist, Inc.’s Motion for a Protective Order. **Dkt. No. 439**. Also before the Court is the Motion for Expedited Hearing filed by Defendants Micron Technology, Inc. *et al* related to the same subject matter. **Dkt. No. 453**.

Netlist seeks a protective order against the deposition of Mr. Chi-She Chen, one of the named inventors of the ’918 and ’054 Patents. Dkt. No. 439 at 4. As a result of related motion practice, the Court granted leave that Micron take Mr. Chen’s deposition out of time on October 23, 2023. *See* Dkt. No. 255. However, Micron did not notice the deposition until January 15, 2024, scheduling the deposition for January 17, 2024. Dkt. No. 493 at 4. At the time, trial was scheduled to begin on January 19, 2024. *See* Dkt. No. 439 at 4; Dkt. No. 263. While the January 17 scheduled deposition was cancelled, the ongoing dispute is evident through Micron’s attempts to schedule the deposition for January 22 and then January 31, 2024. *See* Dkt. No. 453; Dkt. No. 451.

After consideration, Netlist’s Motion for a Protective Order (Dkt. No. 439) is **GRANTED** and Micron’s Motion for Expedited Hearings (Dkt. No. 453) is **DENIED AS MOOT**. The out of time deposition of Mr. Chen was authorized three months ago and Micron was directed to schedule the deposition. *See* Dkt. No. 255. Micron chose to wait until January 15, on the eve of trial, to

attempt to notice the deposition. The Court finds that Micron's failure to proceed with the deposition promptly after the Court's grant of leave in October constitutes a waiver of that right.

SIGNED this 24th day of January, 2024.



ROY S. PAYNE
UNITED STATES MAGISTRATE JUDGE